

MONTANA LEGISLATIVE HISTORY

Chapter 447 1999

Bill H 657 S _____ Original bill & history ____C

H. Committee on Taxation

Hearing Date(s) 3-18 ✓C

3-19 ✓C

_____C

_____C

Date Out _____C

S. Committee on Taxation

Hearing Date(s) 4-9 ✓C

_____C

_____C

_____C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

LEGISLATIVE HISTORIES

The 1997 Montana Legislature dramatically changed the nature of legislative minutes. This altered format continues with the 1999 legislative minutes. The minutes from House committees are extremely sparse in content, offering no substantive information from which to glean legislative intent. The Senate committees' minutes are fuller in content.

Exhibits, which include written statements, attendant information, roll call votes, roll call attendance, a list of those from the public who were present, and specific action taken on legislative bills, will be available only through the Historical Society Archives, 444-4774, and from a CD-ROM produced by the Legislative Services Division, 444-3064.

Just as in the 1997 legislative session, the 1999 House and Senate committee hearings were recorded. For information on accessing the tapes, or purchasing them, contact the Archives, 444-4774.

If you have concerns over the format of these legislative minutes, it is suggested that you contact your state legislators.

HISTORY AND FINAL STATUS 1999

12/23 Fiscal Note Needed
 3/04 Introduced and 1st Reading
 3/04 Referred to Taxation
 3/04 Fiscal Note Requested
 3/09 Fiscal Note Received
 3/10 Fiscal Note Printed
 3/10 Hearing
 3/12 Tabled in Committee
 3/31 Missed Deadline for Revenue Bill Transmittal

HB 656 Introduced by Bookout-Reinicke

LC1422 Drafter: Martin

Generally Revise the Tax Deed Process by Providing a Form to Record or File
 Cancellations of Tax Sales Certificates;...

3/05	Introduced and 1st Reading		
3/05	Referred to Taxation		
3/15	Hearing	20	0
3/15	Committee Executive Action--Bill Passed		
3/16	Committee Report--Bill Passed	97	0
3/24	2nd Reading Passed	99	1
3/25	3rd Reading Passed		

3/26	Transmitted to Senate		
4/09	Referred to Taxation		
4/09	Hearing	9	0
4/09	Committee Executive Action--Bill Concurred		
4/09	Committee Report--Bill Concurred	49	0
4/12	2nd Reading Concurred	50	0
4/13	3rd Reading Concurred		

4/14 Returned to House
 4/14 Sent to Enrolling
 4/15 Returned from Enrolling
 4/16 Signed by Speaker
 4/16 Signed by President
 4/17 Transmitted to Governor
 4/22 Signed by Governor
 4/23 Chapter Number Assigned
 Chapter Number 446
 Effective Date: 4/22/1999 - All Sections

HB 657 Introduced by Davies

LC1047 Drafter: Martin

Revise the Taxation of Estate or Trust Income Based on the Taxable Distribution
 of the Estate or Trust;...

12/04	Fiscal Note Needed		
3/05	Introduced and 1st Reading		
3/05	Referred to Taxation		
3/09	Fiscal Note Requested		
3/10	Fiscal Note Received		
3/11	Fiscal Note Signed		
3/11	Fiscal Note Printed		
3/18	Hearing	18	2
3/19	Committee Executive Action--Bill Passed		
3/19	Committee Report--Bill Passed	95	5
3/25	2nd Reading Passed		

HOUSE BILLS AND RESOLUTIONS

3/26 3rd Reading Passed 94 6

Transmitted to Senate
 3/27 Referred to Taxation
 4/09 Hearing
 4/09 Committee Executive Action--Bill Concurred 8 1
 4/09 Committee Report--Bill Concurred
 4/12 2nd Reading Concurred 48 1
 4/13 3rd Reading Concurred 49 1

Returned to House
 4/14 Sent to Enrolling
 4/15 Returned from Enrolling
 4/16 Signed by Speaker
 4/16 Signed by President
 4/17 Transmitted to Governor
 4/22 Signed by Governor
 4/23 Chapter Number Assigned
 Chapter Number 447
 Effective Date: 4/22/1999 - All Sections

HB 658 Introduced by E. Clark, et al.

LC1565 Drafter: Martin

Exempt from the Oil Production Tax That Is Attributable to County and School
 Taxing Units Oil Production from a Stripper Well That Produces 3 Barrels a Day
 or less If the Average Price of a Barrel of Oil During a Calendar Quarter Is less
 Than \$30;...

1/11	Fiscal Note Needed		
3/05	Introduced and 1st Reading		
3/05	Referred to Taxation		
3/05	Fiscal Note Requested		
3/06	Fiscal Note Received		
3/11	Fiscal Note Signed		
3/11	Fiscal Note Printed		
3/18	Hearing		
3/22	Committee Executive Action--Bill Passed as Amended	20	0
3/22	Committee Report--Bill Passed as Amended		
3/24	2nd Reading Passed	91	9
3/25	3rd Reading Passed	91	9

3/26	Transmitted to Senate		
4/09	Referred to Taxation		
4/12	Hearing		
4/12	Committee Executive Action--Bill Concurred as Amended	8	0
4/12	Revised Fiscal Note Requested		
4/12	Committee Report--Bill Concurred as Amended		
4/13	Revised Fiscal Note Received		
4/13	Revised Fiscal Note Signed		
4/13	2nd Reading Concurred	49	0
4/14	Revised Fiscal Note Printed		
4/14	3rd Reading Concurred	48	2

Returned to House with Amendments
 4/15 2nd Reading Senate Amendments Concurred 85 10
 4/16 3rd Reading Passed as Amended by Senate 80 19
 4/16 Sent to Enrolling
 4/17 Returned from Enrolling

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (H) Taxation -

04:07 PM

-
- HB 652** SPONSOR: Guggenheim, Mary Anne SHORT TITLE: Clarify income for purposes of residential credit for elderly
REFERRED ON: 03/01/1999 HEARD ON: 03/08/1999
EXECUTIVE ACTION: 03/08/1999 Bill Passed -- VOTE: 19 - 0
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-
- HB 654** SPONSOR: Schmidt, Trudi SHORT TITLE: Clarify FIT deduction allowed for individual income/none for self-employment tax
REFERRED ON: 03/04/1999 HEARD ON: 03/09/1999
EXECUTIVE ACTION: 03/12/1999 Bill Passed as Amended -- VOTE: 17 - 3
FINAL DISPOSITION 04/22/1999 (S) Died in Standing Committee
-
- HB 655** SPONSOR: Tropila, Joe SHORT TITLE: Flat tax for income tax
REFERRED ON: 03/04/1999 HEARD ON: 03/10/1999
TABLED ON: 03/12/1999
FINAL DISPOSITION 03/31/1999 (H) Missed Deadline for Revenue Bill Transmittal
-
- HB 656** SPONSOR: Bookout-Reinicke, Sylvia SHORT TITLE: Revise tax deed process
REFERRED ON: 03/05/1999 HEARD ON: 03/15/1999
EXECUTIVE ACTION: 03/15/1999 Bill Passed -- VOTE: 20 - 0
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-
- HB 657** SPONSOR: Davies, Bob SHORT TITLE: Estate and trust deductibility of state and federal taxes
REFERRED ON: 03/05/1999 HEARD ON: 03/18/1999
EXECUTIVE ACTION: 03/19/1999 Bill Passed -- VOTE: 18 - 2
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-
- HB 658** SPONSOR: Clark, Edith SHORT TITLE: Revise local government severance tax to include "stripper well exemption"
REFERRED ON: 03/05/1999 HEARD ON: 03/18/1999
EXECUTIVE ACTION: 03/22/1999 Bill Passed as Amended -- VOTE: 20 - 0
FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HB 659** SPONSOR: Menahan, Red SHORT TITLE: Provide minimum amount for tax refund or bill as a result of revised assessment
REFERRED ON: 03/05/1999 HEARD ON: 03/15/1999
EXECUTIVE ACTION: 03/19/1999 Bill Passed as Amended -- VOTE: 14 - 6
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on March 18, 1999 at 8:00 A.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Kim Gillan, Vice Chairman (D)
Rep. Bob Story, Vice Chairman (R)
Rep. Gary Beck (D)
Rep. Rick Dale (R)
Rep. Bob Davies (R)
Rep. Ron Erickson (D)
Rep. Daniel Fuchs (R)
Rep. Mary Anne Guggenheim (D)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Dan Harrington (D)
Rep. John L. Holden (R)
Rep. Verdell Jackson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bill Rehbein (R)
Rep. Sam Rose (R)
Rep. Trudi Schmidt (D)
Rep. Roger Somerville (R)

Members Excused: None.

Members Absent: None.

Staff Present: Donna Grace, Committee Secretary
Jeff Martin, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Opponents' Testimony:

None.

Informational Testimony:

Mary Bryson, Director, Department of Commerce
{Tape : 1; Side : A; Approx. Time Counter : 24.5}

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 25.2}

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 6.8}

HEARING ON HB 657

Opening Statement by Sponsor:

Rep. Bob Davies, House District 27
{Tape : 1; Side : B; Approx. Time Counter : 8.4}

Proponents' Testimony:

Joseph Shevlin, Montana Society of CPA's
{Tape : 1; Side : B; Approx. Time Counter : 9.1}

Opponents' Testimony:

None.

Informational Testimony:

Larry Allen, Department of Revenue
{Tape : 1; Side : B; Approx. Time Counter : 11.9}

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 12.2}

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 25.4}

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 2.4 - 8.4}

Vote: Somerville Amendment passed 17-3 with Reps. Orr, Story and Rehbein voting no.

{Tape : 3; Side : B; Approx. Time Counter : 8.4 - 9.2}

Vote: Story Amendments passed 16-4 with Reps. Schmidt, Erickson, Gillan and Beck voting no.

{Tape : 3; Side : B; Approx. Time Counter : 9.2 - 11.5}

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 11.5 - 13.7}

Motion: Rep. Harper moved a conceptual amendment to add \$3600 exemption for retirees

{Tape : 3; Side : B; Approx. Time Counter : 13.7 - 13.8}

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 13.8 - 22}

Substitute Motion: Rep. Holden moved to TABLE HB 582 as amended.

{Tape : 3; Side : B; Approx. Time Counter : 22 - 22.6}

Discussion:

{Tape : 3; Side : B; Approx. Time Counter : 22.6 - 24}

Vote: Motion to TABLE HB 582 carried 13-7 with Reps. Story, Orr, Rose, Jackson, Dale, Rehbein and Hanson voting no.

{Tape : 3; Side : B; Approx. Time Counter : 24 - 25.5}

EXECUTIVE ACTION ON HB 657

Motion: Rep. Fuchs moved Do Pass HB 657

{Tape : 3; Side : B; Approx. Time Counter : 25.5 - 27.3}

Discussion: EXHIBIT(5) EXHIBIT(6) Referred to as A and B by Joe Shevlin

{Tape : 4; Side : A; Approx. Time Counter : 0.1 - 12.8}

Questions from Committee Members and Responses:

{Tape : 4; Side : A; Approx. Time Counter : 12.3 - 23.1}

Vote: Motion passed 18-2 with Reps. Harrington and Somerville voting no.

EXECUTIVE ACTION ON HB 659

Motion: Rep. Hanson moved Do Pass.

{Tape : 4; Side : A; Approx. Time Counter : 23.1 - 24.6}

Discussion:

{Tape : 4; Side : A; Approx. Time Counter : 24.6 - 28.3}

Motion/Vote: Rep. Harper moved Amendments #65901. Motion passed unanimously 20-0

{Tape : 4; Side : A; Approx. Time Counter : 28.3 - 28.4}

Discussion:

{Tape : 4; Side : A; Approx. Time Counter : 28.4 - 29.9}

Motion: Motion Do Pass as Amended passed 14-6 with Reps. Orr, Holden, Dale, Rehbein, Rose and Fuchs voting no.

{Tape : 4; Side : B; Approx. Time Counter : 0.1 - 3.3}

INDEX TO BILLS IN COMMITTEE

June 30, 1999

- Committee: (S) Taxation -

05:12 PM

-
- HB 656** SPONSOR: Bookout-Reinicke, Sylvia SHORT TITLE: Revise tax deed process
REFERRED ON: 03/26/1999 HEARD ON: 04/09/1999
EXECUTIVE ACTION: 04/09/1999 Bill Concurred -- VOTE: 9 - 0
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-
- HB 657** SPONSOR: Davies, Bob SHORT TITLE: Estate and trust deductibility of state and federal taxes
REFERRED ON: 03/27/1999 HEARD ON: 04/09/1999
EXECUTIVE ACTION: 04/09/1999 Bill Concurred -- VOTE: 8 - 1
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-
- HB 658** SPONSOR: Clark, Edith SHORT TITLE: Revise local government severance tax to include "stripper well exemption"
REFERRED ON: 03/26/1999 HEARD ON: 04/09/1999
EXECUTIVE ACTION: 04/12/1999 Bill Concurred as Amended -- VOTE: 8 - 0
FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-
- HB 659** SPONSOR: Menahan, Red SHORT TITLE: Provide minimum amount for tax refund or bill as a result of revised assessment
REFERRED ON: 03/27/1999 HEARD ON: 04/09/1999
EXECUTIVE ACTION: 04/09/1999 Bill Concurred -- VOTE: 9 - 0
FINAL DISPOSITION 04/23/1999 Chapter Number Assigned
-
- HB 661** SPONSOR: Rehbein, Bill SHORT TITLE: Revise taxation of oil production from a stripper well
REFERRED ON: 03/30/1999 HEARD ON: 04/07/1999
EXECUTIVE ACTION: 04/12/1999 Bill Concurred as Amended -- VOTE: 8 - 0
FINAL DISPOSITION 05/04/1999 Chapter Number Assigned
-
- HB 669** SPONSOR: Story, Bob SHORT TITLE: Clarify and revise tax valuation of rail transportation property
REFERRED ON: 03/26/1999 HEARD ON: 04/08/1999
EXECUTIVE ACTION: 04/09/1999 Bill Concurred as Amended -- VOTE: 9 - 0
FINAL DISPOSITION 05/04/1999 Chapter Number Assigned
-
- HB 674** SPONSOR: Hibbard, Chase SHORT TITLE: Revise recovery and deposit of accommodations tax paid by state agencies
BY REQUEST OF: (H) Taxation Standing Committee
REFERRED ON: 04/10/1999 HEARD ON: 04/13/1999
EXECUTIVE ACTION: 04/13/1999 Bill Concurred as Amended -- VOTE: 9 - 0
FINAL DISPOSITION 04/29/1999 Chapter Number Assigned
-

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION
COMMITTEE ON TAXATION**

Call to Order: By **CHAIRMAN GERRY DEVLIN**, on April 9, 1999 at
8:00 A.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Bob DePratu, Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Dorothy Eck (D)
Sen. E. P. "Pete" Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Alvin Ellis Jr. (R)
Sen. Bill Glaser (R)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Sandy Barnes, Committee Secretary
Lee Heiman, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 656, 3/29/99; HB 657,
3/29/99; HB 658, 3/29/99; HB
659, 3/29/99; HB 253, 3/29/99
Executive Action: HB 656, HB 659, HB 657, HB
651, HB 669, HB 638

HEARING ON HB 656

Sponsor: REPRESENTATIVE SYLVIA BOOKOUT-REINICKE, HD 71, ALBERTON

Proponents: Patricia Cook, Montana County Treasurers Association

EXECUTIVE ACTION ON HB 656

Motion/Vote: SEN. STANG MOVED HB 656. Motion carried 9-0. SEN. STANG will carry on the floor.

HEARING ON HB 657

Sponsor: REPRESENTATIVE BOB DAVIES, HD 27, BOZEMAN

Proponents: Joe Shevlin, Montana Society of CPAs

Opponents: None

Opening Statement by Sponsor:

REP. BOB DAVIES, HD 27, Bozeman, said this bill was prepared at the request of the Montana Society of CPAs. He said under current law, individuals are tied to federal adjusted gross income, with certain additions and subtractions. If a taxpayer is a beneficiary of an estate or trust, the income from the trust is included in federal adjusted gross income. However, when an estate or trust is taxed at the Montana level, there are usually differences between federal taxable income for the estate and the Montana taxable income for the same estate or trust. In 1998, the Montana Department of Revenue issued a legal opinion that Montana beneficiary taxpayers would be taxed in Montana based on the federal distribution. This law would change and reconcile the differences and allow Montana taxpayers to adjust their federal adjusted gross income by the differences between the federal level and the state level.

Proponents' Testimony:

Joe Shevlin, Montana Society of CPAs, distributed two examples of the Form 1041, Example A, **EXHIBIT(1)**, and Example B, **EXHIBIT(2)**. As REP. DAVIES had said, there are differences between federal adjusted gross income and Montana adjusted gross income. There are certain things taxed in Montana that are not taxed on the federal level, and vice versa. Currently there is no way to adjust those on the individual tax return.

Referring to Example A, Mr. Shevlin said this is an example of the federal fiduciary income tax return, which is the trust or estate return. On page 1, line 18, it shows the income distribution deduction, and the taxable amount to beneficiaries at the federal level is \$12,250. Turning to page 3, he pointed out lines 1 and 2, which total the \$12,250. He said this is the amount that is taxed for income tax purposes at the federal level. Page 4 is the Montana fiduciary income tax return for the

same trust or estate, and line 32 reflects the amount that is taxable under Montana law, \$15,250. Page 6 is a copy of the front page of the Montana individual income tax return. He said because Montana piggybacks the federal rules, included on line 20 is the amount of income taxable under federal rules, \$12,250. This law allows the differences between the federal and the state item to be reconciled on the bottom part of the first page.

Mr. Shevlin said Example B is similar to Example A, except that it goes the other way. On page 1, line 18, it reflects \$5,350; page 4, line 32, shows an income distribution deduction for this particular trust or estate of \$3,500 less than the federal. This bill allows all the reconciling items to be adjusted on the Montana return.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. ELLINGSON asked what this bill would do with the examples he had explained. **Mr. Shevlin** said this bill allows those differences between the federal and the state to be deducted or added on the Montana return at the beneficiary level as reflected on page 6, line 23 on Example A, and on page 6, line 34 on Example B. **SEN. ELLINGSON** asked, then, if under current state law those adjustments could not be made, and **Mr. Shevlin** said that under current state law some of those adjustments can be made. This law expands that to be able to make all adjustments that arise between the federal and the state level.

SEN. ELLIS said his understanding is that the correct tax is being paid currently, and **Mr. Shevlin** said he did not think so. He said under current law, the taxpayer is not allowed to adjust the adjusted gross income by some of these amounts. Therefore, the taxpayer is not able to deduct the federal taxes that might have been at the trust or estate level.

SEN. STANG asked what the advantage was for the person who under current law would be paying more taxes with these changes. **Mr. Shevlin** said it is a concept of fairness. He said there should not be a difference between the taxpayer who is a beneficiary of a trust or an estate and the taxpayer who is not a beneficiary.

CHAIRMAN DEVLIN asked the Department of Revenue about the vagueness of the Fiscal Note. **Jeff Miller, Department of Revenue**, said in this instance the Department does not have the data captured in a fashion that would allow calculation of this.

SEN. STANG asked why the Department had not come forward with these changes, and **Mr. Miller** said the Department is aware of this issue as a result of some litigation, and this bill is a result of that litigation because it questions the whole concept of distributable net income as defined in the Montana statutes.

SEN. STANG asked if this legislation will make Montana consistent with the court ruling in that particular case, and **Mr. Miller** said it would.

SEN. ELLIS asked if there were very many trust filings in Montana, and **Mr. Miller** said he did not know, but he could provide that information. **SEN. ELLIS** asked if that number had increased substantially, and **Mr. Miller** said he was not aware of a significant increase in trusts being formed, but there has been excellent utilization of that credit vehicle among individuals and corporations.

Closing by Sponsor:

REP. DAVIES closed by saying that this is a taxpayer friendly bill for the most part, but more than that, it is a fairness issue. He urged support.

HEARING ON HB 658

Sponsor: REPRESENTATIVE EDITH CLARK, HD 88, SWEETGRASS

Proponents: Sen. Glenn Roush, SD 43, Cut Bank
Carl Weniger, Montana Oil and Gas Association
Curt Dahlgard, Somont Oil Company
Gail Abercrombie, Montana Petroleum Association
Gary Feland, J&G Operating
R. D. Phillips, Potlatch Oil and Refining Company
and Dry Coulee Oil and Gas Company
Patrick Montalban, Northern Montana Oil & Gas Association

Opponents: None

Informational Testimony: Don Hoffman, Department of Revenue

Opening Statement by Sponsor:

REP. EDITH CLARK, HD 88, Sweetgrass, said that **HB 658** is the little stripper well bill, and it really is about jobs and income. She said most of the oil fields in her country are old and the production is low. These small stripper wells that produce one-half to three barrels of oil a day are what most of

Opening Statement by Sponsor:

REP. WILLIAM "RED" MENAHAN, HD 57, Anaconda, said HB 659 is a simple bill for the county treasurers that deals with remitting monies under \$5. Under this bill, they will not pay less than \$5, and they won't bill for less than \$5.

Proponents' Testimony:

Patricia Cook, Lake County Treasurer, Montana County Treasurers Association, said that county treasurers often see corrections to tax bills, an addition, a deletion, or a refund, authorized by the Department of Revenue, in the amount of \$5 or less. It is not cost effective to process this. HB 659 would simplify the treasurers' work and save the expense of processing these.

Opponents' Testimony: NoneQuestions from Committee Members and Responses:

SEN. ELLINGSON asked if this passes and the taxpayers find out about it, whether they would start writing their property tax checks for \$5 less than what they owe, and REP. MENAHAN said he did not think that would be a problem. He said this really just involves revisions.

SEN. ECK asked if there were instances where the whole tax on a property was less than \$5, and Ms. Cook said that this bill only affects revisions, not initial tax bills.

Closing by Sponsor:

REP. MENAHAN had no closing statement.

EXECUTIVE ACTION ON HB 659

Motion/Vote: SEN. ELLIS MOVED THAT HB 659 BE CONCURRED IN.
Motion carried 9-0. SEN. BOHLINGER will carry on the floor.

EXECUTIVE ACTION ON HB 657

Motion: SEN. GLASER MOVED THAT HB 657 BE CONCURRED IN.

Discussion:

SEN. STANG said he originally intended to vote against this bill, but after Mr. Miller said it does comply with the court ruling,

he believes that it should be consistent and he will vote for the bill.

SEN. ELLIS said it is only fair that people who are recipients of trust income should be treated the same as all taxpayers, and this bill does that.

Mr. Miller explained to the committee that the Department took a very narrow view of what was deductible for that tax case, and the court sustained the Department. However, the Department could recognize the equity in the arguments, so when the CPAs brought forward this bill, the Department did not object. It is a fairness issue.

SEN. STANG said in that case he does not like the bill and would vote against it.

Vote: MOTION carried 8-1 with Stang voting no. **SEN. ELLIS** will carry the bill on the floor.

EXECUTIVE ACTION ON HB 651

CHAIRMAN DEVLIN said there were some amendments to this bill placed before each committee member this morning, and **Mr. Heiman** has looked these over. **Mr. Heiman** said he had checked the mechanics of the amendments, but he had not had a chance to look at the IRS Code section. **Mr. Miller** said the Department had sat down with the CPAs and the sponsor, and everyone agreed that these amendments make very clear how the Montana net operating loss will be calculated. He said the first amendment simply amends the title, the second amendment amends the reference as to which version of the Internal Revenue Code, the 1986 version, and the third amendment ties up the definitions contained in the Internal Revenue Code on that operating loss. Modifications will have to be made to make those work in the Montana environment, but this language allows the Department to do that.

Motion/Vote: **SEN. ELLIS MOVED THE DEPARTMENT OF REVENUE AMENDMENTS, EXHIBIT(5).** Motion carried 9-0.

Motion/Vote: **SEN. ELLIS MOVED THAT HB 651 BE CONCURRED IN AS AMENDED.** Motion carried 9-0.

EXECUTIVE ACTION ON HB 669

CHAIRMAN DEVLIN reminded the committee that this is the bill that has to do with railroad taxation.

Motion: **SEN. GLASER MOVED THAT HB 669 BE CONCURRED IN.**